

SELECT COMMITTEE TO INVESTIGATE THE
JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

DEPOSITION OF: STEPHEN K. BANNON (NO-SHOW)

Thursday, October 14, 2021

Washington, D.C.

The deposition in the above matter was held in Room 1540A, Longworth House
Office Building, commencing at 10:00 a.m.

Present: Representative Schiff.

Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

██████████, CHIEF INVESTIGATIVE COUNSEL

██████████, SENIOR INVESTIGATIVE COUNSEL

██████████, CHIEF COUNSEL

██████████, INVESTIGATIVE COUNSEL

██████████, PARLIAMENTARIAN

██████████, CHIEF CLERK

procedures, rules, or regulations.

This inquiry includes examination of how various individuals, to include Mr. Bannon, and entities coordinated their activities leading up to the events of January 6, 2021. Mr. Bannon has not produced any documents or appeared today to testify.

I will mark as exhibit 1 and enter into the record the select committee's subpoena to Mr. Bannon, included with which are the materials that accompanied the subpoena, namely, a letter from the chairman, a document scheduled with accompanying production instructions, and a copy of the deposition rules.

[Bannon Exhibit No. 1

Was marked for identification.]

██████████ I will mark as exhibit 2 and enter into the record an email exchange between ██████████ and Robert Costello, Mr. Bannon's attorney.

[Bannon Exhibit No. 2

Was marked for identification.]

██████████ On September 23, 2021, ██████████ emailed Mr. Costello the subpoena to Mr. Bannon and the accompanying materials included in exhibit 1 and asked whether Mr. Costello was authorized to accept service of the subpoena on Mr. Bannon's behalf.

Mr. Costello replied to ██████████ on September 24, 2021, that he was authorized to accept service of the subpoena on Mr. Bannon's behalf.

I will mark as exhibit 3 and enter into the record a letter Mr. Costello sent to ██████████ on October 7, 2021.

[Bannon Exhibit No. 3

Was marked for identification.]

██████████ In sum and substance, the letter states that Mr. Bannon is, quote, "legally unable to comply with your subpoena requests for documents and testimony," close quote, because President Trump's attorney informed Mr. Costello by letter, dated October 6, 2021, that President Trump is invoking executive privilege, quote, "to the fullest extent permitted by law," close quote, and instructing Mr. Bannon not to provide documents or testimony, quote, "concerning privileged material," close quote, in response to the select committee's subpoena.

I will mark as exhibit 4 and enter into the record a letter that Chairman Thompson sent to Mr. Costello in response on October 8, 2021.

[Bannon Exhibit No. 4

Was marked for identification.]

██████████ And I'll take a brief pause to recognize that Mr. Schiff has joined us.

Turning back to the letter that Chairman Thompson sent on October 8th, in sum and substance, the response states that Mr. Costello's, quote, "letter relies on an apparent instruction from former President Donald Trump that appears limited to requesting that Mr. Bannon not disclose privileged information. Despite this limited instruction, your letter takes the inappropriate position that Mr. Bannon will not comply with any request for information or testimony sought by the select committee. Moreover, Mr. Trump's stated 'intention to assert those executive privileges' that may or may not belong to him does not provide a legal basis for Mr. Bannon's refusal to comply with the subpoena," close quote.

The letter states the select committee's expectation that Mr. Bannon would appear today for the deposition and respond fully to the select committee's questions and to state for the record any objections to particular questions for the select committee's consideration and possible judicial review.

The letter concludes by advising that the select committee will view Mr. Bannon's failure to respond to the subpoena as, quote, "willful noncompliance," close quote, that would force the select committee to consider invoking the contempt of Congress procedures entitled to United States Code, sections 192 and 194, which could result in a referral from the House to the Department of Justice for criminal charges as well as the possibility of a civil action against Mr. Bannon personally to enforce the subpoena.

I will mark as a final exhibit, exhibit 5, and enter into the record a reply letter that Mr. Costello sent to Chairman Thompson the evening of October 13, 2021.

[Bannon Exhibit No. 5

Was marked for identification.]

██████████ In sum and substance, the letter reiterates that Mr. Bannon is abiding by President Trump's invocation of executive privilege and direction to Mr. Bannon not to produce documents or testify.

In support of Mr. Bannon's position, the letter cites several judicial opinions on executive privilege, including a 2019 decision of the United States District Court in Washington in the case of Committee on the Judiciary v. McGahn.

In particular, the letter cites the following sentence from the court's opinion, quote: "The President can certainly identify sensitive information that he deems subject to executive privilege, and his doing so gives rise to a legal duty on the part of the aide to invoke the privilege on the President's behalf when, in the course of his testimony, he is asked a question that would require disclosure of that information," close quote.

However, Mr. Bannon is not here today to assert executive privilege on a question-by-question basis. He chose instead not to appear at all, just as he chose not to produce any documents at all or even a log of responsive documents that he is withholding based on the claim of executive privilege.

With that, I will note for the record that it is 10:06 a.m., and Mr. Bannon still has not appeared or communicated to the select committee that he will appear today as required by the subpoena.

Accordingly, the record is now closed as of 10:06 a.m.

[Whereupon, at 10:06 a.m., the deposition was concluded.]